

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DION BERRYMAN, <i>et al.</i> ,	:	
Plaintiffs,	:	
	:	Case No. 3:05cv169
vs.	:	
	:	District Judge Walter Herbert Rice
	:	Magistrate Judge Sharon L. Ovington
SUPERVALU HOLDINGS, INC., <i>et al.</i> ,	:	
Defendants.	:	
	:	

**DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS FILED
ON OCTOBER 29, 2008 (Doc. #45); AND GRANTING IN PART AND DENYING IN
PART PLAINTIFFS' MOTION TO COMPEL DISCOVERY (Doc. #36)**

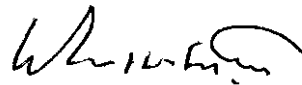
The Court has conducted a de novo review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #45), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** said Report and Recommendations.

It is therefore **ORDERED** that:

1. The Report and Recommendations filed on October 29, 2008 (Doc. #45) is ADOPTED in full;
2. Plaintiffs' Motion to Compel Discovery (Doc. #36) is GRANTED in part, as to Interrogatory #1 and Document Request #31 (Doc. #41, Exhibit F) ONLY;
3. Defendants are DIRECTED to produce and make available for inspection by

Plaintiffs' counsel or their designated representative, within ten (10) days of the date of the Court's final Order, all documents necessary in order for Plaintiffs to discern **the name; race; date of hire; date of termination; dates of any promotion(s) and position(s) promoted to; regular and overtime hours worked each year; and seniority relative to other employees each year;** of each member of Plaintiffs' collective bargaining units, with the **same supervisor and/or same job** as any Plaintiff, employed by Defendant SuperValu at its Xenia warehouse facility **from May 1999 to present ONLY**, in accordance with Fed. R. Civ. P. 33(d);

4. Plaintiffs' Motion to Compel (Doc. #36) is DENIED in all other respects;
5. Defendants are DIRECTED to provide, along with its response, a privilege log in accordance with Fed. R. Civ. P. 26(b)(5)(A), as to any information within the scope of this Order withheld by Defendants as privileged or subject to protection as trial-preparation material; and
6. The parties shall submit for the Court's consideration any proposed protective order pursuant to Fed. R. Civ. P. 26(c)(1) deemed necessary in order to protect the privacy interests of nonparties.



Walter Herbert Rice
United States District Judge